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| 10/046,101 | 01/11/2002 | Keith A. Ranierc | FIRS-2994 | 2867 |
| 5409 | 7590 | 01/22/2007 | EXAMINER | |
| SCHMEISER, OLSEN & WATTS 22 CENTURY HILL DRIVE SUITE 302 LATHAM, NY 12110 | | | LEIVA, FRANK M | |
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| SHORTENED STATUTORY PERIOD OF RESPONSE | | MAIL DATE | DELIVERY MODE | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | |
|------------------------------|--|---------------------------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/046,101 Examiner Frank M. Leiva | RANIERE, KEITH A. Art Unit 3714 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 1/11/2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-164 is/are pending in the application.
 4a) Of the above claim(s) 81-92 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-80 and 93-164 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 11 January 2002 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>1/11/2002</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION
Election/Restrictions

1. Applicant's election with traverse of invention I (claims 1-80 and 93-164) in the reply filed on 10/27/2005 is acknowledged. The traversal is on the ground(s) that invention I (claims 1-80 and 93-164) and invention II (claims 81-92). This is not found persuasive because invention II (claims 81-92) drawn to virtual currency systems, are actually in class 705/1,39, and invention I (claims 1-80 and 93-164) search will be centered in class 463.
2. The requirement is still deemed proper and is therefore made FINAL.

Priority

3. The applicant is not claiming benefit of prior-filed provisional or non-provisional application.

Information Disclosure Statement

4. The information disclosure statement filed January 11th, 2002 complies with 37 CFR 1.97(d and e), and 37 CFR 1.98. It has been taken in consideration by the examiner.

Drawings

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, invention as described in the specification's description for Fig. 2, 'House vendor" and 'House' as same entity, must be shown or the feature(s) canceled from the claim(s), also "positive sum game" has to be shown in the drawings as well. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the

several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

Claim Rejections - 35 USC § 112 1st paragraph

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:
The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
7. Claims 12,13, 52, 53, 58, 59, 60, 61, 66, 67, 100, 101, 103, 104, 109, 110, 131, 132, 134, 135, 140 and 141 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.
8. Claims 12, 52, 58, 60, 61, 66, 100, 103, 104, 109, 131, 134, 135, and 140 recite "positive sum game", which is an economic function theorem between two or more entities, it is not a game to be played or a machine to be played. The "game of uncertain outcome" described as a machine, cloud not express the "positive sum game" theorem and would be misrepresented in figures 1 and 2 of the drawings.
 - a. Claims 13, 53, 59, 67, 101, 110, 132, and 141 recite "positive participant game", whereas a player who has won monies can be considered a "positive participant", but a

game of uncertain outcome cannot be called a positive participant game or thus the outcome would not be uncertain any more.

- b. Claims 22, 62, 65, 105, and 136 recite, "adapted to guarantee that the player cannot lose", yet the game is of uncertain outcome, these are contradicting terms.
- c. Claims 24, 64, 107, and 138 recite, "guarantee that the player's initial capital must increase", yet the game is of uncertain outcome, these are contradicting terms.
- d. Claims 25 and 108 recite, "guaranteeing the Q percent", yet the game is of uncertain outcome, these are contradicting terms.

Claim Rejections - 35 USC § 112 2nd paragraph

- 9. The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
- 10. Claim 18 recites the limitation "Φ"(Phi) in line 3. There is insufficient antecedent basis for this limitation in the claim.
- 11. Claim 139 recites the limitation "the house vendor" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 12. Claims 1-80, and 93-164 are rejected under 35 U.S.C. 102(b) as being anticipated by American Casino Guide 2002 Edition, published by Casino Vacations and known thereafter as "ACG2002".
- 13. Regarding claims 1, 29, 41, 69, 93, 112, 124, 143 and 155, ACG2002 teaches;
 - e. The use of scrip in the form of comp tickets. (p. 18:8-16).

- f. A casino game in a casino (house), where the casino reimburses a player his winnings in cash plus comps for time played on the games, or just comps if there are no winnings. (p. 18:8-16).
- 14. Regarding claims 2-5, 42-45, ACG2002 teaches;
 - g. A multitude of house vendors and outside vendors. (p. 19:29-32, and p. 19:46 – p. 20:2).
 - h. The exchange of scrip for items. (p. 19:29-32, and p. 19:46 – p. 20:2).
 - i. Vendor reimbursement of the scrip at a discounted value. (p. 19:46-48).
- 15. Regarding claims 6, 46, 94, and 125, ACG2002 teaches;
 - j. Vendors that do not provide the same products. (p. 19:29-32, and p. 19:46 – p. 20:2).
- 16. Regarding claims 7, 47, 48, 95, and 126, ACG2002 teaches;
 - k. That the redemption rate of script to items is set for each vendor according to the houses needs, thus the house decides if the rate will be the same or not for all the vendors. (p. 19:29-32, and p. 19:46 – p. 20:2).
- 17. Regarding claims 8, 96, and 127 ACG2002 teaches;
 - l. That the redemption rate of script to cash is set for each vendor according to the houses needs, thus the house decides if the rate will be the same or not for all the vendors. (p. 19:29-32, and p. 19:46 – p. 20:2).
- 18. Regarding claims 9, 15, 49, 55, 97, and 128 ACG2002 teaches;
 - m. Where there is a profit margin for the player by doing business with the vendors. (p. 16:19-29).
- 19. Regarding claims 10, 16, 50, 56, 98, and 129, ACG2002 teaches;

- n. Where there is a profit margin for the house by doing business with the vendors. (p. 12:32 – p. 13:2).
- 20. Regarding claims 11, 51, 99, and 130, ACG2002 teaches;
 - o. Where there is a profit margin for the vendor by doing business with the house. For example marketing cost reductions discount on space leases etc. (p. 12:32 – p. 13:2)
- 21. Regarding claims 14, 17, 28, 54, 57, 68, 102, 111, 133, and 142, ACG2002 teaches;
 - p. Where there is a profit margin for the player by doing business with the vendors, (p. 16:19-29), and where there is a profit margin for the house by doing business with the vendors, (p. 12:32 – p. 13:2).
- 22. Regarding claims 30, 70, 113, and 144, ACG2002 teaches;
 - q. Where the scrip earnings is dependent directly from the cash spent. (p. 19:34-36).

Claim Rejections - 35 USC § 103

- 23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
- 24. Claims 31-34, 71-74, 114-117 and 145-148 are rejected under 35 U.S.C. 103(a) as being unpatentable over ACG 2002 in view of Acres (US 6,319,125 B1), known thereafter as "Acres9125".

25. Regarding claims 31-34, 71-74,114-117 and 145-148, ACG fails to teach using scrip to place a bet. Acres9125 teaches;

r. A house that comprises a casino, betting by scrip also known as free play, comp play or bonus play, and conditions to the use of the betting scrip. (Col 10:35-47).

It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate Acres9125's "betting comp moneys" to the disclosures of ACG2002 comp ticket strategies. One would be motivated to do so because this gives the player the illusion that they have been given actual cash back and that they have actually earn money while playing thus adding to costumer satisfaction.

26. Claims 35, 75, 118, and 149 are rejected under 35 U.S.C. 103(a) as being unpatentable over ACG2002 in view of Walker et al (US 2006/0142078 A1), known thereafter as "Walker2078".

27. Regarding claims 35, 75, 118, and 149, ACG2002 fails to disclose computer casinos or virtual casinos. Walker et al 2078 teaches;

s. Where the house comprises a computer generated casino or virtual casino. ¶ [0030, 0042, and 0045].

It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate Walker's virtual casino teachings to the disclosures of ACG2002 comp ticket strategies. One would be motivated to do so because this gives the player accessibility to other forms of gambling that would be more available to them thus adding to costumer satisfaction.

28. Claims 36, 76, 119, and 150 are rejected under 35 U.S.C. 103(a) as being unpatentable over ACG2002 in view of Walker et al (US 2002/0123376 A1), known thereafter as "Walker 3376".

29. Regarding claims 36, 76, 119, and 150, ACG fail to disclose player interaction via Internet and other wireless methods of communication. Walker 3376 teaches;

t. Wherein a player interacts with the casino via Internet and wireless medias. ¶ [0031, 0039, and 0142].

It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate Walker's wireless communication system to the disclosures of ACG2002 comp ticket strategies. One would be motivated to do so because this gives the player accessibility to scrip remuneration and facilitate vendor interaction thus adding to costumer satisfaction.

30. Claims 12, 13, 18-21, 26, 27, 37-40, 52, 53, 58-61, 66, 67, 77-80, 100, 101, 103, 104, 109, 110, 120-123, 131, 132, 134, 135, 140, 141, 151-154, and 156-164 are rejected under 35 U.S.C. 103(a) as being unpatentable over ACG2002 in view of Walker et al (US2003/0060276 A1).

31. Regarding claims 37-40, 77-80, 120-123, 151-154, and 156-164, ACG2002 fails to disclose that casino games have an uncertain outcome; that selecting from a lottery or sport game would be an uncertain outcome; that the games could be a slot machine or a game of poker; that there might be a fee associated with the establishment; and that there might be specific criteria to satisfy such as winning a game.

32. Regarding claims 37, 77, 120, and 151, Walker 0276 teaches;

u. The game of uncertain outcome is a casino game. ¶ [0008].

33. Regarding claims 38-40, 78-80, 121-123, 152-154, 156-158, and 161-163 Walker 0276 teaches;

v. Where the game of uncertain outcome includes an event selected from a lottery or sport. ¶ [0039].

w. The uncertain outcome game is a game of chance. ¶ [0039]

- x. The game of uncertain outcome is a game of skill. ¶ [0039].

34. Regarding claims 159, Walker 0276 teaches;

- y. Where the entrance comprises the payment of a fee. ¶ [0160].

35. Regarding claims 160 and 164, Walker 0276 teaches;

- z. Where the outcome comprises a win of a game. ¶ [0160-0161]/
- aa. Where the action satisfies a criterion. ¶ [0160-0161]

It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate Walker's teachings to the disclosures of ACG2002 comp ticket strategies. One would be motivated to do so since the invention and the disclosure are of analogous art and related to the same commercial enterprise.

36. Regarding claims 12, 13, 18-22, 24-27, 52, 53, 58-62, 64-66, 67, 100, 101, 103-105, 107-109, 110, 131, 132, 134-136, and 138-141 ACG2002 fails to teach positive sum scenarios and positive participant systems. Walker 0276 teaches;

- bb. Positive sum game or positive outcome games. ¶ [0022, 0023, 0095, 00132]
- cc. Positive participant systems. ¶ [0022, 0023, 0095, 00132].
- dd. Guaranteed outcomes. ¶ [0164, 0173, 0175, 0177].

It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate Walker's positive win strategies to the disclosures of ACG2002 comp ticket strategies. One would be motivated to do so since the invention and the disclosure are of analogous art and related to the same commercial enterprise.

37. Claims 23, 63, 106, and 137 are rejected under 35 U.S.C. 103(a) as being unpatentable over ACG2002 in view of Walker 0276.

38. Walker discloses that the player can select its guaranteed payout, but does not disclose expressly that the value is 50 percent. At the time of the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to select the value of 50 because the applicant has not disclosed that the particular value has any advantage or need it for any particular purpose or solves a stated problem.

39. Therefore, it would have been *prima facie* obvious to modify Walker 0276 to obtain the invention as specified in claims 23, 63, 106, and 137 because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Walker 0276.

Citation of Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank M. Leiva whose telephone number is (571) 272-2460. The examiner can normally be reached on M-Th 8:30am - 5:pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P. Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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01/10/2007



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